

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11418-NMG

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**ANDREW CHMIELINSKI**  
**Plaintiff**

v.

**COMMONWEALTH OF MASSACHUSETTS**  
**OFFICE OF THE COMMISSIONER OF PROBATION**  
**and COMMONWEALTH OF MASSACHUSETTS**  
**TRIAL COURT and JOHN J. O'BRIEN, INDIVIDUALLY**  
**and ANTHONY J. SICUSO, INDIVIDUALLY**  
**Defendants**

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JOINT MOTION TO CONTINUE HEARING ON MOTION TO DISMISS

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The parties to the above-captioned action, through counsel, hereby respectfully request that the hearing on the motion to dismiss currently scheduled to take place on December 6, 2006, be continued to a date either later in December or in early January 2007 (as is set forth specifically below). As grounds for this motion, counsel state as follows:

1. Defendants filed a motion to dismiss in this action in March 2006.
2. In November 2006 the motion to dismiss was referred to Magistrate Sorokin. The motion to dismiss has been scheduled for hearing on December 6, 2006.
3. Counsel for Plaintiff is scheduled to commence trying a jury trial in Plymouth Superior Court on December 6, 2006. If the case proceeds on December 6, 2006, it is anticipated that the trial will last for at least a week. Counsel for Plaintiff is also scheduled for trial in mid January and late January.
4. Counsel for Defendants is scheduled to be conducting a trial on December 6, 2006. Additionally, counsel for Defendants has vacation scheduled for the end of December.
5. Counsel for the parties are available to conduct the hearing on the motion to dismiss either on December 18, 2006, December 21, 2006 or the first week of January 2007.

For all of the foregoing reasons, it is respectfully requested that the hearing on the motion to dismiss currently scheduled for December 6, 2006, be continued to either December 18, 2006, December 21, 2006 or the first week of January 2007.

Respectfully submitted,

ANDREW CHMIELINSKI  
By his attorney,

/s/Mitchell J. Notis

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Mitchell J. Notis  
Law Office of Mitchell J. Notis  
370 Washington Street  
Brookline, MA 02445  
617-566-2700

COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE COMMISSIONER OF PROBATION  
AND TRIAL COURT, JOHN J. O'BRIEN, ANTHONY SICUSO

By their attorneys,

/s/ Sarah M. Joss

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Thomas F. Reilly  
Attorney General  
Sarah M. Joss  
Assistant Attorney General  
Trial Division  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
617-727-2200, ext. 2081

**CERTIFICATE OF SERVICE**

I, Mitchell J. Notis, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that paper copies will be sent to any non-registered participants as indicated in the Notice of Electronic Filing, this 20th day of November, 2006.

/s/Mitchell J. Notis

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MITCHELL J. NOTIS, BBO# 374360  
Law Office of Mitchell J. Notis  
370 Washington Street  
Brookline, MA 02445  
Tel: 617-566-2700